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27 JUL 1969

The Honorable Bryce N. Harlow  
Assistant to the President  
The White House  
Washington, D. C.

OGC Subject:  
legislation S. 782

Dear Bryce:

You may recall that in the 90th Congress Senator Sam J. Ervin of North Carolina introduced a bill, S. 1035, to protect the constitutional rights and privacy of Government employees. This bill passed the Senate with amendment but died in the House. Senator Ervin has reintroduced an identical bill, S. 782, in the present session and some of its provisions give me serious concern.

My Legislative Counsel, Jack Maury, has in the past day or two been in touch with Ken Edlén and Dale Grubb, and we had previously provided Ken with copies of the bill and some papers explaining our problems and proposed solutions. However, now that Senator Ervin's Subcommittee is about to take up the matter, I want to call it to your personal attention.

Although the bill in its present form does provide limited exemptions for CIA, NSA and the FBI, it nevertheless seriously inhibits our ability to obtain full information about our employees. Other provisions impair the command and disciplinary system essential to management and security in a sensitive intelligence organization. For example:

- a. The bill gives the employee the right to counsel the moment he is first questioned regarding any conduct which might lead to disciplinary action.

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b. It creates a Board on Employees' Rights to which any employee or applicant can complain, and which would have disciplinary power over supervisory officers charged with violation of the act.

c. It provides immediate access to Federal courts, without exhausting administrative remedies, to any employee or applicant who claims his rights have been violated.

After a number of requests on our part, Senator Ervin has reluctantly agreed to hear us in executive session of his Subcommittee on Constitutional Rights of the Judiciary Committee on Tuesday, 22 July. Members of this Subcommittee are Senators McClellan, Kennedy, Bayh, Byrd (W., Va.), Hruska, Fong and Thurmond. We have talked with Senators McClellan and Bayh, both of whom agree that CIA and the other security agencies should be granted a complete exemption. Senator Ervin, of course, is adamantly opposed to such an exemption, and we understand Senators Kennedy and Fong probably share this view. We do not know the position of Senators Byrd, Hruska and Thurmond, but I believe that if you could convey to them some indication that the Administration supports our position this would be extremely helpful.

I would therefore be most grateful for anything you can appropriately do in this regard.

Sincerely,

*787* Richard M.  
Richard Holmes  
Director

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